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August 23, 1988

Mr. Stephen Lingle
Director, Hazardous Site
Evaluation Division
Office of Emergency and
Remedial Response
U.S. Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460

ATTENTION: NPL Staff

Re: Firestone Tire & Rubber Company
(Albany Plant) Albany, Georgia

Dear Mr. Lingle:

The Firestone Tire & Rubber Company ("Firestone") objects to the proposal to include on the National Priorities List ("NPL") its now-closed tire manufacturing plant in Albany, Georgia. 53 Fed. Reg. 23988 (June 24, 1988). The U.S. Environmental Protection Agency's ("EPA" or the "Agency") proposal to include the Albany plant on the NPL is based on incorrect and outdated factual assumptions. The Hazard Ranking System ("HRS") score for the Albany plant is premised on conditions that did not exist at the time of scoring and on erroneous information reported by the Georgia Department of Natural Resources ("DNR"). The proposed rule is fatally flawed because the data relied upon for scoring purposes did not accurately reflect conditions at the time of scoring. Reliance on such incorrect data would render a final rule that included the Albany plant on the NPL legally invalid.

The proposed scoring of the Albany plant does not take into account the condition of the site following the comprehensive site assessment and the extensive remedial activities Firestone performed, even though data demonstrating

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that any contamination had been completely remediated were known to Georgia DNR at least three months before scoring was completed. Firestone's decision to conduct the site assessment and the remedial actions taken as a result of the soil and groundwater testing both occurred before Firestone learned that the Albany plant was being considered for NPL inclusion. Firestone did not investigate and remediate the site merely to avoid NPL listing, but rather as part of a general effort to prepare the property for resale or reuse. Moreover, Firestone submitted to Georgia DNR before the completion of the HRS scoring a report prepared by Woodward-Clyde Consultants ("WCC"), which explained in detail the investigation and results of the remedial work. Although Georgia DNR relied on pre-cleanup data from the WCC Report in scoring the site, it did not consider the conditions at the site after the remediation in the scoring package. Moreover, to the extent that EPA relies on Georgia DNR's scoring of the Albany plant, but does not include the entire relevant data base in the administrative record, its proposed rulemaking action would be unlawful.[1] The selective use of data and reliance on historical conditions that no longer exist are "arbitrary and capricious" and would require reversal of a final rule that included the Albany plant on the NPL.

In these circumstances, inclusion of the site on the list not only would be unlawful, but also would serve as a substantial disincentive for companies to take remedial action on their own initiative. Recalculation of the HRS score to account for conditions existing after completion of Firestone's remedial action reduces the score below the minimum necessary for inclusion on the NPL. Firestone submits these comments to urge EPA to recalculate the HRS score for the Albany plant and delete the site from the final updated NPL.

1/ If EPA does not have access to the data contained in Georgia DNR's files, Firestone reserves the right to supplement the administrative record with copies of the materials it submitted to Georgia DNR before the completion of the proposed HRS scoring.

Site Background

The Firestone Albany plant is a 329.2 acre site on which Firestone built a tire manufacturing plant that commenced operations in 1968. During the tire manufacturing process, Firestone used various solvents that generated hazardous wastes. These wastes were stored on the site for short periods of time before disposal off-site. In accordance with the Resource Conservation and Recovery Act ("RCRA"), Firestone timely filed a Notification of Hazardous Waste Activity and Part A of a permit application to obtain Interim Status. In 1983, Firestone notified Georgia DNR of its determination that the Albany plant did not require treatment, storage and disposal authority, requested a change in facility status to generator only and withdrew its permit application.

Firestone decided to cease tire manufacturing at Albany and terminated operations at the plant in 1986. Firestone made several specific efforts to prepare the property for sale after closure. Although not legally required to do so, Firestone designed and filed with Georgia DNR a proposed closure plan for the hazardous waste storage area. Firestone responded to comments and suggestions on the closure plan made by Georgia DNR and proceeded to close the storage area. In connection with closure, Firestone retained WCC, which undertook extensive testing and soil borings to confirm that the storage pad had been cleaned and that no releases occurred from the pad to the adjacent soil. Georgia DNR officials reviewed the test results, performed a site inspection of the facility, and concluded that the hazardous waste storage area had been acceptably closed. Georgia DNR notified Firestone formally of its determination.

In anticipation of sale and reuse of the property, Firestone retained WCC to perform an extensive environmental assessment of the site. Firestone's decision to perform the site assessment and the scope of the investigation commissioned by Firestone far exceeded any legal requirements. Firestone consulted with Georgia DNR throughout the planning and implementation of the site assessment. Georgia DNR considered Firestone's voluntary initiative to be a model approach to responsible and complete plant closure.

The site assessment conducted for Firestone by WCC produced extensive data on site conditions. The initial program included 27 shallow soil borings (up to 5 feet in depth), 32 exploratory borings (up to 70 feet in depth) and 20 groundwater monitoring wells. The soil samples were analyzed for metals, PCB's and volatile organic compounds. The groundwater samples were analyzed for metals, organic priority pollutant compounds and fuel composition.

The soil sampling data indicated two areas of potential environmental concern: a gasoline tank area and the plant electrical transformers. Firestone promptly undertook appropriate preventive responses to those concerns. Soil samples in the gasoline tank area reported gasoline constituents above detectable levels. Even though the site assessment did not suggest any tank integrity problems, Firestone arranged for the removal and disposal of all underground storage tanks. Soil from the gasoline tank area (the only area where contamination was detected) was then excavated and disposed. Post-excavation soil analyses verified that no contaminated soil remained in the tank pit area. Soil samples in the vicinity of the plant transformers contained traces of polychlorinated biphenyls ("PCB"). Firestone developed and implemented a program for removal of the electrical transformers and PCB-contaminated soil. The transformers were replaced with non-PCB units and soil in the transformer area was excavated and disposed in accordance with applicable regulations. Post-removal soil sampling in the area showed substantially less than 10 ppm PCB's, which is well below all applicable cleanup standards.

Firestone also conducted a phased groundwater quality assessment program, in which results from initial testing were used to design subsequent testing phases. Trace quantities of certain volatile organic compounds were detected in shallow wells completed in the residuum and weathered, upper Ocala, which are not groundwater resources. No contaminants were found in the productive zone of the Ocala aquifer (which has been identified by EPA as the aquifer of concern for HRS purposes). Based on the sampling results and remedial activity, WCC concluded that the Albany plant did not present an environmental hazard or concern.

Firestone submitted to Georgia DNR the Environmental Assessment Report prepared by WCC on May 20, 1987, and agreed to

continue quarterly sampling at the site for the next year. WCC prepared monitoring reports on March 31, 1988, and June 14, 1988, which Firestone submitted to Georgia DNR. The quarterly monitoring data confirm the initial conclusion that the site does not present a risk to the environment.

The Failure to Take Into Account Site Conditions at the Time of HRS Scoring Is Illegal

The action taken by Firestone to evaluate the environmental conditions at the Albany plant and to perform measures to ensure that no harm to the environment could develop were completed and known to Georgia DNR at least three months before HRS scoring of the site. The failure of the proposed rule to account for the site conditions that existed at the time of HRS scoring is flatly contrary to the legal requirements applicable to NPL updates. In scoring the Albany plant, selective use was made of data in Georgia DNR files, apparently to support the predetermined result of including the site on the NPL. Inclusion of the Albany plant on the final updated NPL would be illegal.

Inclusion of the Albany Plant on the NPL Would Be Contrary to CERCLA's Policy of Encouraging Private Party Response Actions and Would Result in Unnecessary and Wasteful Commitment of Limited Agency Resources and Superfund Monies

Firestone's actions with respect to the Albany plant have been exemplary. Firestone developed and implemented a plan for closure of its hazardous waste storage area even though it was not legally required to do so. As part of its termination of operations in Albany, Firestone funded a site assessment and cleanup. Firestone continues to monitor conditions at the site. Without explicit or implicit prodding from either federal or state regulatory bodies, Firestone spent over $2 million to evaluate, remediate and monitor conditions at the plant. In fact, Georgia DNR was involved only because Firestone took the initiative to include the State in the design and implementation of its program. Georgia DNR considers Firestone's investigation and cleanup program to be a model for voluntary plant closure.

Inclusion of the Albany plant on the NPL is flatly contrary to CERCLA's policy of encouraging private response actions such as Firestone's. The Agency's failure to recognize Firestone's principled actions to remedy the conditions at its facility will teach private parties not to expend their own resources. The message being conveyed by EPA's proposed NPL decision is that the Agency will go forward with its plan to expend Superfund monies at a site irrespective of the private remedial action already completed. Such action by the Agency can only deter private responses like Firestone's. Moreover, because no further remedial action will be required at the site, EPA's proposed expenditure of Superfund money is unnecessary and therefore not recoverable in a subsequent cost recovery action.

Thus, the proposed inclusion of the Albany site on the NPL means that limited resources of EPA personnel and Superfund money will be committed to a site where all available data indicate that no further response action will be required. The time and money spent by Agency personnel conducting a remedial investigation and feasibility study ("RI/FS") of the Albany plant can more effectively be used at sites that will require further remedial action where the Agency will be able to recover costs incurred.

Performance of an RI/FS at Albany is even more wasteful because the record on which EPA proposes to include the site on the NPL improperly does not take into account conditions at the site that existed -- and were known by Georgia DNR -- at the time of HRS scoring. Although Firestone submitted the WCC Environmental Assessment Report to Georgia DNR on May 20, 1987, the State did not consider Firestone's successfully completed remedial actions in scoring the site. As a result, the HRS scoring package assumes threats from PCB and gasoline contamination that Firestone has already acted to prevent. When the conditions at the site that existed at the time of scoring are considered, the HRS score for the site is below the minimum necessary for inclusion on the NPL.

The Agency's Proposed Hazard Ranking Systems Score for the Albany Plant Is Erroneous

EPA's proposed score for the groundwater pathway includes a score of 45 for observed release because the Agency found that data from groundwater sampling indicated contaminants at levels above background. According to the Agency, the concentration of the contaminants decreased as distance from the facility increased. The Agency proposes to assign a score of 18 for toxicity and persistence on the basis of data concerning PCB's and lead, and a hazardous waste quantity score of 2 based on a figure of 110,000 pounds of spillage calculated by Georgia DNR. Finally, the Agency proposal has a target population score of 39. The proposal assigns a groundwater use value of 3 (for use as drinking water with no alternate unthreatened sources available). The distance to nearest well/population served component of the proposal was assigned a value of 30, with the nearest well approximately 1,600 feet from the site and the population served within a three mile radius estimated at 1863. EPA's proposed groundwater route score of 61.22 yields an HRS score of 35.39.

Firestone's specific comments on EPA's scoring of the Albany plant are directed toward the waste characteristics and targets scoring factors. EPA's proposed waste characteristics score is too high because the wastes for which EPA has assigned toxicity and persistence values have either already been remediated (PCB's) or are not attributable to releases from the plant (lead). The Agency's proposed score for hazardous waste quantity is too high because it is based on errors by Georgia DNR in interpreting information provided by Firestone personnel concerning the amount of spillage at the site. Finally, the Agency's proposed targets score is erroneous. The value assigned to groundwater use is too high because alternate water supplies are readily available to all users within a three mile radius of the facility. The value for distance to nearest well/population served, however, is too low because the Agency does not account for usage by the military base adjacent to the plant. Properly calculated, the groundwater route score is 41.8. The final HRS score should be 24.2.

Toxicity and Persistence. The proposed score for this portion of the waste characteristics component is based on the

Agency's assumption that PCB's and lead attributable to the Albany plant were detected in sampling data. Both contaminants receive toxicity/persistence scores of 18. In fact, as demonstrated below, Firestone had already cleaned up the PCB's at the time of scoring and the lead is present only at background levels and cannot be attributed to plant operations. The correct toxicity/persistence score should be 12.

Use of PCB data in calculating an HRS score for the Albany plant is erroneous. The Agency used PCB's to score the site because they "were detected in soil around the plant's transformers." Proposed HRS Scoring Package at 11 (attached at Tab 1). However, at least three months before the HRS scoring was done, Firestone had completed remedial work on its PCB cleanup and reported to Georgia DNR that post-cleanup soil testing demonstrated PCB levels far below all relevant cleanup standards. The HRS Cover Sheet indicates that Charles P. Evans reviewed the scoring package for the Albany plant on August 25, 1987. Firestone commenced sampling at the plant in the first half of 1986 and completed its remedial activity by May 1987. By letter dated May 20, 1987, Firestone submitted to Georgia DNR the WCC Report that described the PCB cleanup activities it had completed and the results of post-cleanup sampling.

The PCB remedial program conducted by Firestone involved first the removal of the PCB transformers by Rollins Environmental Services ("Rollins"). Soil sampling was then performed to define the extent of PCB contamination. Based on the results of all soil samples, Rollins removed the contaminated soil from contaminated areas. Upon completion of the soil removal, additional sampling of the contaminated area was performed and analyses were done by an independent testing lab to verify the adequacy of the remedial activity. Soil was cleaned to less than 10 ppm PCB's by weight, using requirements for decontaminating PCB spills in "nonrestricted access areas" as a guideline. See 40 C.F.R. Part 761. Rollins conducted manifesting, transport and disposal of contaminated soil in accordance with applicable regulations.

The Agency's proposed rule relies on pre-cleanup data showing PCB contamination in soil, but ignores the data showing that the contamination has been removed. All the data were known to Georgia DNR before the scoring was completed. The selective

use of data by Georgia DNR and EPA's failure to include all relevant data in the administrative record completely undercut this aspect of the proposed HRS score. Based on the post-cleanup soil sampling results (attached at Tab 2), there is no factual basis to support EPA's proposed use of PCB's for scoring toxicity and persistence of waste at the Albany plant.

Use of lead in calculating the HRS score also is erroneous. EPA used lead to score the site because "[l]ead was detected in production well 2 (PW-2) at six times the level found in production well 1 (PW-1). The facility is known to have several gasoline storage tanks which were probably used to store leaded fuel." Proposed HRS Scoring Package at 11 (emphasis added). There is absolutely no evidence in the record that leaded gas was used or stored at the plant. The data in the record does not support the Agency's unsupported assumption that lead detected in one groundwater well is attributable to the facility. Moreover, the level of lead found in that well is within the reported background range for the area.

The data in the record does not support EPA's use of lead in scoring the site because: a) the well from which the highest concentration of lead was found is side-gradient from the gasoline storage tank area at the plant; and b) other fuel components, which would be present if the lead came from gasoline, were not detected in the groundwater samples. Well PW-2, which on one occasion showed 0.018 ppm lead, is located approximately 1,900 feet south-southeast of the former gasoline tanks. The groundwater flow in the productive zone of the Ocala, in which well PW-2 is completed, is to the southwest. Thus, well PW-2 is not downgradient from the gasoline tank storage area.

Moreover, well PW-2 did not contain fuel components ("BTX") or any other volatile organic compounds. Well PW-1, which contained less than 0.003 ppm lead and no detectable fuel components, is located approximately 950 feet east-southeast of the former tanks. Well OW-1, a deep Ocala observation well, is located approximately 700 feet southeast of the former tanks and contained less than 0.003 ppm lead and no detectable concentration of fuel components. Well MW-1-1 is a monitoring well located approximately 25 feet east of the former tanks and contained BTX, but less than 0.003 ppm lead. Therefore, even if PW-2 were downgradient from the storage tanks, the lead found in

that well could not have from the storage tanks because BTX was not detectable in the well. Accordingly, there is no basis to support EPA's assumption that the lead in well PW-2 can be attributable to the Albany plant.

The Agency's assumption about the source of the lead is also contradicted by the fact that the level of lead detected in well PW-2 is within the background range for lead in the Albany area. Based on data reported by the United States Geological Survey ("USGS"), in Water Resources Investigations Report 87-4145, monitoring wells installed by the USGS in the Ocala aquifer in Albany have shown background lead concentrations in the range of 0.003 to 0.020 ppm. Thus, the concentration found in PW-2 is within the reported background range. There is no factual basis to support EPA's proposed use of lead for scoring toxicity and persistence of waste at the Albany plant.[2]

The next highest scoring waste for toxicity and persistence is 1,1 dichloroethene ("1,1-DCE"), to which EPA proposes to assign a matrix score of 15. EPA assigns a persistence value for 1,1-DCE of 2, citing only "Dangerous Properties of Industrial Materials" by Sax as a reference for that value. That reference book, however, does not contain a persistence value for 1,1-DCE. The HRS Users Manual assigns the related compound, 1,2 dichloroethene ("1,2-DCE"), a persistence value of 1. There is no basis in the record for assigning a persistence value of greater than 1 for 1,1-DCE. Accordingly, the toxicity/persistence value for waste at the site equals 12.

Waste Quantity. The Agency's proposed score of 2 for hazardous waste quantity is erroneous. EPA's score for this factor is based on a record of a telephone conversation between Georgia DNR and a Firestone employee. The HRS Scoring Package interprets the information contained in that record as indicating

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2/ Notably, EPA's groundwater route backup documentation does not identify lead as one of the "contaminants detected at levels significantly above background" or as "[attributable] to the facility." Proposed HRS Scoring Package at 9.

that 110,000 pounds of waste cement are unaccounted for.[3] In fact, the telephone conversation record indicates that only 4,000 pounds of waste cement are unaccounted for and presumed to be spilled.

The Georgia DNR telephone record states that a total of 950,000 pounds of waste cement containing 50% naptha and 50% aromatic solvents were generated since 1968 when the plant opened. Preliminary Assessment Telephone Conversation Record at 1 (attached at Tab 3). The record further states that between 1968 and 1976, all waste cement (610,000 pounds) was disposed at a local landfill. The record then reports that from 1976 to 1980, the waste cement was shipped to a different disposal facility. The record does not report, however, the quantity of waste shipped during those years. It is that omission that the Agency's proposed scoring does not take into account. See footnote 3 supra. The telephone record indicates that 230,000 pounds of the aromatic solvents portion of the waste cement were recycled, but does not indicate the years of shipment. Finally, the telephone record explicitly provides that "[t]he balance of the waste about 4,000 pounds is estimated to have been lost due to spillage." Preliminary Assessment Telephone Conversation Record at 2.

3/ EPA calculated the amount of waste spilled as follows:

950,000	pounds of waste cement produced 1968-1980
-610,000	pounds of waste cement sent to local landfill 1968-1976
340,000	pounds of waste difference
-230,000	pounds of waste cement recycled sent to a secure hazardous waste disposal facility
110,000	pounds of waste cement lost

Proposed HRS Scoring Package at 12. EPA's reference for these figures is the Georgia DNR telephone conversation record. Missing from the EPA calculus, and not included in the telephone record is the amount of waste disposed from 1976 to 1980. See discussion infra. Moreover, Firestone did not recycle waste cement, but rather disposed of that material off-site.

The telephone record also contains the statement that "[a]n estimated 110,000 pounds of naptha and waste solvents are estimated to have been lost due to spillage on-site. Three acres of contaminated soil." Id. Affidavits from the Firestone employee who had the conversation with Georgia DNR and the Firestone employee who was the Energy and Environmental Section Manager in Albany demonstrate that there is no factual basis to support that statement. See Affidavits of Wayne B. Cope (attached at Tab 4) and Charles S. Homola (attached at Tab 5).[4] Both affidavits expressly deny that 110,000 pounds of naptha and waste cement were spilled on site. Cope Aff. at 9; Homola Aff. at 5. Mr. Cope indicates that he informed Georgia DNR that in 1980, 200 drums of miscellaneous flammable liquid waste was burned. Cope Aff. at 9. Mr. Cope believes that the 110,000 figure was derived by multiplying 200 drums by 55 gallons to yield 110,000 gallons, not pounds. Id. at 9. Mr. Homola was present at that event and estimates that only 60 to 70 partially filled drums of liquid were burned. Homola Aff. at 6. Mr. Homola also states that the event was contained in an area only 75 feet in diameter, not three acres. Id. at 6. Neither man has any knowledge of the three acres referred to in the telephone record. Id. at 6; Cope Aff. at 9.

Finally, the Georgia DNR official who wrote the telephone conversation record prepared a typed version the next day. The typed report twice references the 4,000 pound figure and never references the 110,000 pound figure. Firestone Tire & Rubber Co. Preliminary Assessment Cover Sheet GAD990855074 at 1 (attached at Tab 6). The only figure for waste quantity supported by the record before the Agency is 4,000 pounds, which yields a value of 1.

Targets. The proposed HRS score for the targets component is erroneous. The proposal assigns a value of 3 to groundwater use because the aquifer of concern is "used as a source of drinking water and water for irrigation of cropland."

4/ Mr. Homola's affidavit provides figures for the quantity of waste cement generated and disposed from 1981 to 1986. Homola Aff. at 3. The quantities reported by Mr. Homola account for the amount of waste cement Georgia DNR incorrectly assumed was lost.

Proposed HRS Scoring Package at 12. The proposal's score for the distance to nearest well/population served is 30, on the basis of data that the nearest well is 1600 feet from the plant and the population served from drinking water and cropland irrigation is 1863. Both components of the targets are incorrect, but the correct total score is higher than that proposed by EPA.

The value EPA proposes to assign to groundwater use is for drinking water with no alternate unthreatened sources available. 40 C.F.R. Part 300, App. A, § 3.5. There is no finding in the HRS scoring package that alternate supplies are unavailable. In fact, municipal water supplies from unthreatened sources are currently available from the City of Albany water distribution system. As a result, the value for groundwater use should be 2.

The Agency's assigned value for population served does take into account the military base adjacent to the facility. Wells on that facility appear to draw at least some drinking water from the productive zone of the Ocala. Including base personnel in the population served would increase the value for that factor to 4, which would increase the matrix value for this factor to 35. The total targets score should therefore be increased to 41.

Recalculation of the Hazard Ranking Score

The proposed HRS score for the Albany plant of 35.39 has been demonstrated above to have been based on outdated sampling results and incorrect assumptions. Scoring of the Albany plant to reflect conditions in existence at the time of scoring and correct historical facts require recalculation of the waste characteristics and target components of the score. Attached at Tab 7 is the recalculated score based on the following corrections to the EPA proposal:

1) The toxicity/persistence value for the contaminants at the site is 12 because Firestone has successfully completed remediation of the PCB contamination and there is no basis to support the assumption that lead in levels above background can be attributed to the plant.

2) The waste quantity value should be 1 because EPA's assumption that 110,000 of waste was spilled at the site is based on the misinterpretation of information provided by Firestone.

3) The groundwater use value should be 2 because alternate drinking water supplies are available for all persons who use water from wells within a 3-mile radius of the plant.

4) The distance to nearest well/population served value should be 35 because EPA has not considered the adjacent military base as a potentially affected population.

With these corrected values used, the recalculated groundwater use score is 41.8 and the total site score is 24.2, which is less than the 28.5 score EPA requires for inclusion on the NPL.

CONCLUSION

The Agency's proposal to include on the NPL Firestone's former tire manufacturing plant in Albany, Georgia unlawfully ignored facts known at the time of scoring. The proposed listing also is not supported by the factual record and would create a tremendous disincentive for private parties to remedy environmental concerns on their own initiative. At this site, Firestone acted responsibly to identify and remediate environmental concerns before any risks to the environment could occur and before the HRS scoring of the site. Firestone acted on its own and to an extent greater than legally required. The proposal now to include the site on the NPL, without taking into account the conditions resulting from Firestone's actions, sends the unambiguous message to private parties that they should not bother taking preventive actions on their own. Including the

Albany plant on the final updated NPL would not only violate legal requirements, but also would produce incalculable harm to CERCLA's policy. The site should be deleted from the proposed list.

Very truly yours,

Paul E. Gutermann

Counsel for the Firestone
Tire & Rubber Company